

I. **REMARKS**

The Office Action dated September 9, 2008, has been received and carefully noted. The following remarks are submitted as a full and complete response thereto.

No amendments to the claims or specification are made at this time.

Claims 1, 4, 5, 9, 11, and 21-23 were rejected under 35 U.S.C. § 103(a) over WO 98/09948 (hereinafter “Del Soldato I”) in view of Mamidi et al. further in view of WO 00/61541 (hereinafter “Del Soldato II”). Mamidi et al. refers to Mamidi R. et al., “Pharmacological and Pharmacokinetic Evaluation of Celecoxib Prodrugs in Rats,” Biopharm. Drug Dispos. 23:273-282 (2002).

The Examiner has stated that the current rejection could be withdrawn, because Del Soldato I and Del Soldato II constitute prior art only under 35 U.S.C. § 102(e) and because Del Soldato I, Del Soldato II, and the present application have a common inventor. Applicants submit that Del Soldato I and Del Soldato II should be disqualified as a reference under 35 U.S.C. § 103(c), because “the subject matter [of the reference] and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Applicants submit that Del Soldato I, Del Soldato II, and the present application were assigned to NicOx S.A. at the time of the claimed invention was made. Applicants enclose the Patent Assignment record from the U.S. Patent and Trademark Office website for the present application.

Therefore, Applicants respectfully request removal of Del Soldato I and Del Soldato II as references in the rejection and reconsideration and withdrawal of the rejection of claims 1, 4, 5, 9, 11, and 21-23 under 35 U.S.C. § 103(a).

II. **CONCLUSION**

Applicants respectfully submit that this application is in condition for allowance and such action is earnestly solicited. If the Examiner believes that anything further is desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below to schedule a personal or telephone interview to discuss any remaining issues.

In the event this response is not timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension, along with any other additional fees which may be required with respect to this response, may be charged to Deposit Account No. 01-2300, referencing Attorney Docket No. **026220-00058**.

Respectfully submitted,



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